

TRANSMITTAL OF APPEAL BRIEF (Large Entity)Docket No.
BLD920010026US1In Re Application Of: **Buckley et al.**

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
09/941,329	08/29/2001	Reilly, Sean M.	45092	2153	6579

Invention: **METHOD AND SYSTEM FOR MANAGING A PLURALITY OF
CONSOLE DEVICES IN A NETWORK****COMMISSIONER FOR PATENTS:**

Transmitted herewith in triplicate is the Appeal Brief in this application, with respect to the Notice of Appeal filed on

May 17, 2005

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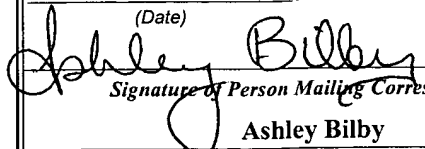
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*Signature*Dated: **July 18, 2005**

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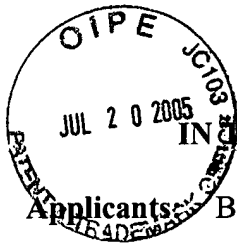
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*Signature of Person Mailing Correspondence***Ashley Bilby***Typed or Printed Name of Person Mailing Correspondence*

CC:



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Buckley *et al.*

Conf. No.: 6579

Serial No.: 09/941,329

Art Unit: 2153

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Docket No.: BLD920010026US1
(IBME-0022)

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BRIEF OF APPELLANTS

This is an appeal from the Final Rejection dated March 16, 2005, rejecting claims 1-26.

This Brief is accompanied by the requisite fee set forth in 37 C.F.R. 1.17 (c).

REAL PARTY IN INTEREST

International Business Machines Corporation is the real party in interest.

RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

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STATUS OF CLAIMS

As filed, this case included claims 1-26. No claims have been added. Claims 1-26 remain pending. Claims 1-26 stand rejected and form the basis of this appeal.

STATUS OF AMENDMENTS

Appellant filed an Response on February 7, 2005 to a non-final Office Action dated November 5, 2004. No response was been filed in response to the Final Office Action dated March 16, 2005.

SUMMARY OF THE INVENTION

The present invention provides a method and system for managing a plurality of console devices in a network. Specifically, under the present invention, a computing network that includes a system server, at least one terminal concentrator (TC) server connected to the system server, a multiplexor connected to each TC server, and at least one console device connected to each multiplexor are provided. Users can access the system server to start a shared session and access one of the console devices. In general, the connection between a console device, a multiplexor, and a TC server is made via a hardwired serial port connection. The connection between the TC server and the system server can be made via either with a hardwired connection or an addressable connection (e.g., using TCP/IP technology).

Claim 1 claims a method for managing a plurality of console devices over a network, comprising the steps of: providing a plurality of console devices interconnected over a hardwired network (see e.g., page 11, lines 3-16; page 16, lines 8-10; FIG. 2; FIG. 4, #102); checking an availability of one of the console devices (see e.g., page 11, line 17 through page 12, line 2; FIG.

3, #50; FIG. 4, #104); requesting a shared session from a current user of the checked console device (see e.g., page 14, lines 1-9; FIG. 3, #54; FIG. 4, #106); starting the shared session (see e.g., page 14, lines 10-21; FIG. 3, #56; FIG. 4, #108); and accessing the console device on a peer to peer basis over the hardwired network during the shared session (see, e.g., page 12, lines 4-15; page 14, line 10 through page 15, line 8; FIG. 3, #58; FIG. 4 #110), wherein both the hardware and software layer of the console device can be accessed (see, e.g., page 15, line 9 through page 16 line 7).

Claim 7 claims a method for managing a plurality of console devices in a network, comprising the steps of: providing a plurality of console devices interconnected over a hardwired serial port network (see e.g., page 11, lines 3-16; page 16, lines 8-10; FIG. 2; FIG. 4, #102); checking an availability of one of the console devices prior to attempting to access the console device (see e.g., page 11, line 17 through page 12, line 2; FIG. 3, #50; FIG. 4, #104); requesting a shared session from a current user of the console device (see e.g., page 14, lines 1-9; FIG. 3, #54; FIG. 4, #106); starting a shared session at a TCP/IP layer level (see e.g., page 14, lines 10-21; FIG. 3, #56; FIG. 4, #108); accessing the console device on a peer to peer basis over the hardwired serial port network (see, e.g., page 12, lines 4-15; page 14, line 10 through page 15, line 8; FIG. 3, #58; FIG. 4 #110); and performing system console access of the console device, wherein both the hardware and software layer of the console device can be accessed (see, e.g., page 15, line 9 through page 16 line 7).

Claim 9 claims a method for managing a plurality of console devices in a network, comprising the steps of: providing a plurality of console devices interconnected over a hardwired serial port network (see e.g., page 11, lines 3-16; page 16, lines 8-10; FIG. 2; FIG. 4, #102); a current user of one of the console devices inviting a new user to join a shared session of the

console device (see e.g., page 13, lines 13-22; FIG. 3, #52); starting the shared session of the console device (see e.g., page 14, lines 10-21; FIG. 3, #56; FIG. 4, #108); and accessing the console device on a peer to peer basis over the hardwired serial port network (see, e.g., page 12, lines 4-15; page 14, line 10 through page 15, line 8; FIG. 3, #58; FIG. 4 #110), wherein both the hardware and software layer of the console device can be accessed (see, e.g., page 15, line 9 through page 16 line 7).

Claim 12 claims a system for managing a console device in a network, comprising: a system server (see e.g., page 7, lines 15-22; FIG. 1, #11); a terminal concentrator server connected to the system server (see e.g., page 7, lines 15-22; FIG. 1, #28 and #34); a multiplexor connected to the terminal concentrator server (see e.g., page 7, lines 15-22; FIG. 1, #30 and #36); a console device connected to the multiplexor (see e.g., page 7, lines 15-22; FIG. 1, #32 and #36); and a program product stored on the system server for allowing users to open a shared session and access the console device (page 9, lines 1-6; FIG. 1, #26, FIG. 3), wherein both the hardware and software layer of the console device can be accessed (see, e.g., page 15, line 9 through page 16 line 7).

Claim 20 claims a system for managing a plurality of console devices in a network, comprising: a system server (see e.g., page 7, lines 15-22; FIG. 1, #11); a plurality of terminal concentrator servers connected to the system server (see e.g., page 7, lines 15-22; FIG. 1, #28 and #34); a separate multiplexor connected to each of the terminal concentrator servers (see e.g., page 7, lines 15-22; FIG. 1, #30 and #36); at least one console device hardwired to each multiplexor (see e.g., page 7, lines 15-22; FIG. 1, #32 and #36); and a program product stored on the system server for allowing users to open a shared session of a particular console device , and to access the particular console device on a peer to peer basis (page 9, lines 1-6; FIG. 1, #26,

FIG. 3), wherein both the hardware and software layer of the console device can be accessed (see, e.g., page 15, line 9 through page 16 line 7).

Claim 26 claims a program product stored on a recordable medium for managing a plurality of console devices interconnected over a hardwired serial port network (see e.g., page 11, lines 3-16; page 16, lines 8-10; FIG. 2; FIG. 4, #102), which when executed, comprises: program code configured to access one of a plurality of console devices on a peer to peer basis (see, e.g., page 12, lines 4-15; page 14, line 10 through page 15, line 8; FIG. 3, #58; FIG. 4 #110); program code configured to invite a user to join a shared session of one of the console devices (see e.g., page 13, lines 13-22; FIG. 3, #52); program code configured to request a shared session from a current user of one of the console devices (see e.g., page 14, lines 1-9; FIG. 3, #54; FIG. 4, #106); program code configured to delegate control of one of the console devices during a shared session; and program code configured to regain delegated control of one of the console devices (see e.g., page 15, lines 1-8; FIG. 3, #28), wherein both the hardware and software layer of the console device can be accessed (see, e.g., page 15, line 9 through page 16 line 7).

ISSUES

1. Whether claims 1-11 are unpatentable under 35 U.S.C. §103(a) over Zhu *et al.* (U.S. Patent No. 6,691,154), hereafter “Zhu” in view of Powderly *et al.* (U.S. Patent No. 6,560,641), hereafter “Powderly,” Isfeld *et al.* (U.S. Patent No. 5,483,640), hereafter “Isfeld,” Sarin *et al.* (“Computer-based real-time conferencing systems”), hereafter “Sarin,” and Thompson *et al.* (U.S. Patent App. Pub. No. 2002/0075303), hereafter “Thompson.”
2. Whether claims 12-25 are unpatentable under 35 U.S.C. §103(a) over Paroz *et al.* (U.S. Patent No. 6,587,125), hereafter “Paroz,” in view of Powderly, Isfeld, Sarin, and Thompson.

GROUPING OF CLAIMS

Claims 1-11 stand or fall together.

Claims 12-26 stand or fall together.

ARGUMENT

Appellant submits that claims 1-26 are allowable and respectfully requests reversal of the Final rejection. Specifically, claims 1-26 stand rejected under 35 U.S.C. §103(a) over various combinations of Zhu, Paroz, Powderly, Isfeld, Sarin and Thompson..

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify a reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Appellants respectfully submit that the cited references, taken alone or in combination, fail to meet each of the three basic criteria required to establish a *prima facie* case of obviousness. As such, the rejection under 35 U.S.C. §103(a) is defective.

A. REJECTION OF CLAIMS 1 AND 3-6 UNDER 35 U.S.C. §103(a) OVER ZHU IN VIEW OF POWDERLY AND SARIN

In the above referenced Final Office Action, the Examiner alleges that the cited references teach or suggest accessing the console device on a peer to peer basis. Instead, the passage of Zhu cited by the Office teaches

The system can be configured to permit some, or alternatively, all of the remote experts in the data conference to control the file editing application associated with the desktop application or the selected application to edit the loaded desktop or the application screen, respectively. Col. 5, lines 33-43.

However, the above cited passage of Zhu does not teach or suggest that the remote experts access the desktop application on a peer to peer basis. In contrast, Zhu teaches against a peer to peer basis by citing advantages of using a client-server architecture rather than a peer-to-peer architecture. Col. 2, line 63 through col. 3, line 8. To this extent, these teachings, namely peer to peer architecture, are in opposition to the teachings of Zhu. In contrast, the claimed invention includes "...accessing the console device on a peer to peer basis over the hardwired network." Claim 1. As such, the accessing of the console device as included in the claimed invention does not merely use a client-server architecture as in Zhu, but rather is on a peer to peer basis. Neither Powderly nor Sarin removes this deficiency.

B. REJECTION OF CLAIMS 2, 7 AND 8 UNDER 35 U.S.C. §103(a) OVER ZHU IN VIEW OF POWDERLY, SARIN AND ISFELD

In the above referenced Final Office Action, as stated above, the Examiner alleges that the cited references teach or suggest accessing the console device on a peer to peer basis. As argued above with respect to claim 1, the Zhu reference teaches away from this feature. Isfeld does not cure this deficiency. Additionally, there would be no motivation to combine Isfeld with Zhu because Zhu teaches against peer to peer architecture.

C. REJECTION OF CLAIMS 9-11 UNDER 35 U.S.C. §103(a) OVER ZHU IN VIEW OF POWDERLY, ISFELD AND THOMPSON

In the above referenced Final Office Action, as stated above, the Examiner asserts that the cited references teach or suggest accessing the console device on a peer to peer basis. As

argued above with respect to claim 1, the Zhu reference teaches away from this feature. Isfeld and Thompson do not cure this deficiency, but instead, as stated above, there would be no motivation to combine Isfeld with Zhu, which teaches against peer to peer architecture.

D. REJECTION OF CLAIMS 12, 15-18, 20-22 and 24 UNDER 35 U.S.C. §103(a) OVER PAROZ IN VIEW OF POWDERLY

In the above referenced Final Office Action, the Examiner further alleges that the cited references teach or suggest a terminal concentrator server connected to the system server. The Office equates the system server of the claimed invention with the web server of Paroz. Final Office Action, page 10. The Office then attempts to equate the terminal concentrator server with the mediator of Paroz. Final Office Action, page 10. However, the mediator of Paroz is not a separate server, but rather a "...mediator software program residing on a Web server." Col. 7, lines 49-50. Furthermore, the Office later attempts to equate the same mediator of Paroz with another element of the claimed invention, namely, the program product stored on the system server. However, the mediator of Paroz cannot be both a server and a program product simultaneously. In any event, nowhere does Paroz teach or suggest a terminal concentrator server connected to its Web server. The claimed invention, in contrast, includes, "...a terminal concentrator server connected to the system server." Claim 12. As such, the terminal concentrator server is not merely a software component of the system server as is the mediator in Paroz, but is instead a server connected to the system server. Thus, the terminal concentrator server of the claimed invention is not taught or suggested by the mediator of Paroz.

In the above referenced Final Office Action, the Examiner still further alleges that the cited references teach or suggest a multiplexor connected to the terminal concentrator server.

The Office admits that Paroz does not expressly state a multiplexer, but asserts that "...it would

have been obvious to one of ordinary skill in the art at the time of the invention to include a multiplexer in the network.” Final Office Action, page 11. However, contrary to the Office’s assertion, Applicants assert that the Office’s factual assertion is not properly based upon common knowledge. For example, Applicant asserts that a multiplexer connected to a terminal concentrator server that is included in a system for managing a console device with a system server, a terminal concentrator system connected to the system server, a console device connected to the multiplexer and a program product stored on the system server is not obvious to one skilled in the art as asserted by the Office. Accordingly, Applicants assert that the Office has failed to support the finding with references that show these features.

E. REJECTION OF CLAIMS 13, 14 and 23 UNDER 35 U.S.C. §103(a) OVER PAROZ IN VIEW OF POWDERLY AND ISFELD

With further regard to the 35 U.S.C. §103(a) rejection over Paroz in view of Powderly and Isfeld, Applicants submit that the combined features of the cited art fail to teach each and every feature of the claimed invention. Specifically, with respect to dependent claims, Applicants herein incorporate the arguments presented above with respect to independent claims from which the claims depend. Furthermore, Applicants submit that all dependant claims are allowable based on their own distinct features. Since the cited art does not teach each and every feature of the claimed invention, Applicants respectfully request withdrawal of this rejection.

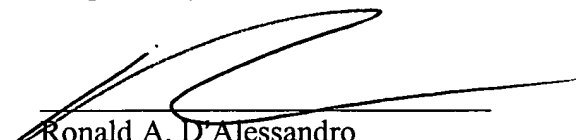
F. REJECTION OF CLAIMS 19, 25 AND 26 UNDER 35 U.S.C. §103(a) OVER PAROZ IN VIEW OF POWDERLY, ISFELD, SARIN, AND THOMPSON

With regard to the Office's arguments regarding dependent claims, Applicants herein incorporate the arguments presented above with respect to independent claims listed above. In

addition, Applicants submit that all dependant claims are allowable based on their own distinct features. However, for brevity, Applicants will forego addressing each of these rejections individually, but reserve the right to do so should it become necessary. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

In summary, Appellants submit that claims 1-26 are allowable because the cited references, taken alone or in combination, fail to meet each of the three basic criteria required to establish a *prima facie* case of obviousness.

Respectfully submitted,



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APPENDIX

Claim Listing:

1. A method for managing a plurality of console devices over a network, comprising the steps of:
 providing a plurality of console devices interconnected over a hardwired network;
 checking an availability of one of the console devices;
 requesting a shared session from a current user of the checked console device;
 starting the shared session; and
 accessing the console device on a peer to peer basis over the hardwired network during the shared session,
 wherein both the hardware and software layer of the console device can be accessed.
2. The method of claim 1, wherein the hardwired network is a hardwired serial port network.
3. The method of claim 1, wherein the shared session is started from a remote location.
4. The method of claim 1, wherein the shared session is started at a TCP/IP layer level.
5. The method of claim, further comprising the step of performing system console access of the accessed console device.
6. The method of claim 1, wherein the console devices are computer systems.
7. A method for managing a plurality of console devices in a network, comprising the steps of:
 providing a plurality of console devices interconnected over a hardwired serial port network;
 checking an availability of one of the console devices prior to attempting to access the console device;
 requesting a shared session from a current user of the console device;
 starting a shared session at a TCP/IP layer level;
 accessing the console device on a peer to peer basis over the hardwired serial port network; and
 performing system console access of the console device,
 wherein both the hardware and software layer of the console device can be accessed.
8. The method of claim 7, wherein the console devices are computer systems.
9. A method for managing a plurality of console devices in a network, comprising the steps of:
 providing a plurality of console devices interconnected over a hardwired serial port network;
 a current user of one of the console devices inviting a new user to join a shared session of the console device;
 starting the shared session of the console device; and
 accessing the console device on a peer to peer basis over the hardwired serial port network,

wherein both the hardware and software layer of the console device can be accessed.

10. The method of claim 9, wherein the shared session is started at a TCP/IP layer level.

11. The method of claim 9, further comprising the step of performing system console access of the console device.

12. A system for managing a console device in a network, comprising:

- a system server;

- a terminal concentrator server connected to the system server;

- a multiplexor connected to the terminal concentrator server;

- a console device connected to the multiplexor; and

- a program product stored on the system server for allowing users to open a shared session and access the console device,

- wherein both the hardware and software layer of the console device can be accessed.

13. The system of claim 12, wherein the terminal concentrator server, the multiplexor and the device are interconnected over a hardwired serial port network.

14. The system of claim 12, wherein the terminal concentrator server and the system server are interconnected over a hardwired serial port network.

15. The system of claim 12, wherein the terminal concentrator server and the system server are addressably connected over a network

16. The system of claim 12, wherein the console device is a computer system.

17. The system of claim 12, wherein the shared session is opened by the users at a TCP/IP layer level.

18. The system of claim 12, wherein the console device is accessed by the users on a peer to peer basis.

19. The system of claim 12, wherein the program product, when executed, comprises:

- program code configured to access one of a plurality of console devices on a peer to peer basis over a hardwired serial port network;

- program code configured to invite a user to join a shared session of one of a plurality of console devices interconnected over a hardwired serial port network;

- program code configured to request a shared session from a current user of one of a plurality of console devices interconnected over a hardwired serial port network;

- program code configured to delegate control of a console device during a shared session; and

- program code configured to regain delegated control of a console device.

20. A system for managing a plurality of console devices in a network, comprising:

- a system server;

a plurality of terminal concentrator servers connected to the system server;
a separate multiplexor connected to each of the terminal concentrator servers;
at least one console device hardwired to each multiplexor; and
a program product stored on the system server for allowing users to open a shared session of a particular console device, and to access the particular console device on a peer to peer basis, wherein both the hardware and software layer of the console device can be accessed.

21. The system of claim 20, wherein the shared sessions are opened on a TCP/IP layer level.

22. The system of claim 20, wherein the console devices are computer systems.

23. The system of claim 20, wherein the system server, the terminal concentrator servers, the multiplexors, and the console devices are interconnected over the hardwired serial port network.

24. The system of claim 20, wherein the system server and the terminal concentrator servers are addressably connected.

25. The system of claim 20, wherein the program product, when executed, comprises:
program code configured to access one of a plurality of console devices on a peer to peer basis over a hardwired serial port network;
program code configured to invite users to join a shared session of one of a plurality of console devices interconnected over a hardwired serial port network;
program code configured to request a shared session from a current user of one of a plurality of console devices interconnected over a hardwired serial port network;
program code configured to delegate control of a console device during a shared session;
and
program code configured to regain delegated control of a console device.

26. A program product stored on a recordable medium for managing a plurality of console devices interconnected over a hardwired serial port network, which when executed, comprises:
program code configured to access one of a plurality of console devices on a peer to peer basis;
program code configured to invite a user to join a shared session of one of the console devices;
program code configured to request a shared session from a current user of one of the console devices;
program code configured to delegate control of one of the console devices during a shared session; and
program code configured to regain delegated control of one of the console devices, wherein both the hardware and software layer of the console device can be accessed.